

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JAIME JOSE MENDOZA,

Plaintiff,

V.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

Defendant.

Case No.: 16-cv-1603-AJB-KSC

**ORDER GRANTING JOINT
MOTION FOR APPROVAL OF
ATTORNEY'S FEES PURSUANT TO
THE EQUAL ACCESS TO JUSTICE
ACT, 28 U.S.C. § 2412(d)**

(Doc. No. 17)

Presently before the Court is Plaintiff Jaime Jose Mendoza (“Plaintiff”) and Defendant Nancy A. Berryhill’s (“Defendant”) joint motion for approval of attorney’s fees pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412(d) filed on October 31, 2017. (Doc. No. 17.) For the reasons set forth below, the Court **GRANTS** the parties’ motion.

BACKGROUND

On June 23, 2016, Plaintiff filed a complaint requesting judicial review of a final administrative decision of the Commissioner of Social Security denying Plaintiff disability insurance. (Doc. No. 1.) On October 31, 2016, Plaintiff filed a motion for summary judgment or motion for reversal and/or remand. (Doc. No. 10.) On December 21, 2016,

1 after a joint motion for extension of time to file was granted, Defendant filed her cross
2 motion for summary judgment and opposition to Plaintiff's motion. (Doc. Nos. 11, 12, 13.)

3 On August 11, 2017, Magistrate Judge Karen S. Crawford filed a report and
4 recommendation ("R&R") that recommended that the district court grant Plaintiff's motion
5 for remand, deny Defendant's motion for summary judgment, and enter judgment in
6 Plaintiff's favor. (Doc. No. 15 at 32.) On September 11, 2017, finding that no party had
7 filed objections to Magistrate Judge Crawford's R&R, the district judge adopted the R&R
8 in whole. (Doc. No. 16.) On October 31, 2017, the parties filed the present joint motion for
9 attorney's fees. (Doc. No. 17.)

10 **DISCUSSION**

11 Under the EAJA, prevailing plaintiffs are entitled to recover their attorneys' fees and
12 costs unless the government's position was substantially justified, special circumstances
13 would make an award unjust, or the application for fees is not timely filed. 28 U.S.C. §§
14 2412(d)(1)(A), (1)(B); *Commissioner, I.N.S. v. Jean*, 496 U.S. 154, 158 (1990). Thus, once
15 a party establishes its status as a prevailing party under the EAJA, a rebuttable presumption
16 arises that it is entitled to an award of fees. *Meinhold v. U.S. Dep't of Defense*, 123 F.3d
17 1275, 1277–78, *amended by*, 131 F.3d 842 (9th Cir. 1997). Once a court finds that a party
18 is entitled to attorneys' fees, it must then determine if the fee is reasonable. *Sneede by*
19 *Thompson v. Coye*, 856 F. Supp. 526, 530 (N.D. Cal. 1994). This inquiry focuses on the
20 reasonable number of hours expended and the appropriate hourly rate. *Id.*

21 Here, Plaintiff is the prevailing party as his motion for remand was granted in his
22 favor. *See Texas State Teachers Ass'n v. Garland Independent School Dist.*, 489 U.S. 782,
23 782 (1989) (holding that a prevailing party is one that succeeds on "any significant issue
24 in the litigation which achieves some benefit [they] sought in bringing the suit."). Thus, in
25 the present case, there is no dispute that Plaintiff has "prevailed."

26 Next, as this is a joint motion, Defendant has not tried to demonstrate that the fees
27 should be denied because the "position" of the United States was "substantially justified."
28 *Oregon Nat. Res. Council v. Madigan*, 980 F.2d 1330, 1331 (9th Cir. 1992). The Court

1 notes that there are also no special circumstances whereby the Court may deny fees to a
2 prevailing party. *See* 28 U.S.C. § 2412(d)(1)(A).

3 The Court must now determine if the fee is “reasonable.” Here, Plaintiff requests he
4 be awarded attorneys’ fees and costs in the amount of \$5,000.00, which represents the
5 compensation for all legal services rendered on behalf of Plaintiff by counsel in connection
6 with this civil action. (Doc. No. 17 at 2.) Though Plaintiff has failed to provide the Court
7 with the number of hours expended in this litigation and their hourly rate, the Court finds
8 that a fee of \$5,000.00 is reasonable in general, and unopposed by defendant. *See Keo*
9 *Laosouvanh v. Astrue*, No. CIV S-06-0589 DAD, 2009 WL 799122, at *2–5 (E.D. Cal.
10 Mar. 24, 2009) (finding award of \$9,740.00 in attorney’s fees under the EAJA reasonable,
11 based on the rational amount of time expended); *see also Barber v. Astrue*, No. CIV S-00-
12 1286 WBS DAD, 2008 WL 2705147, at *3–5 (E.D. Cal. July 8, 2008) (finding a fee of
13 \$21,928.31 reasonable based on over 140 hours of attorney time spent at an hourly rate
14 ranging from \$142.00 to \$167.00).

15 **CONCLUSION**

16 Accordingly, and for good cause appearing, **IT IS HEREBY ORDERED** that:

17 (1) The joint motion for attorney’s fees pursuant to 28 U.S.C. § 2412(d) of the EAJA
18 is **GRANTED** consistent with this order; and
19 (2) Fees will be made payable to Jaime Mendoza, but if the Department of the
20 Treasury determines that Jaime Mendoza does not owe a federal debt, then the
21 government will cause the payment of fees to be made directly to Matty Sandoval,
22 pursuant to the assignment executed by Jaime Mendoza.

23
24 **IT IS SO ORDERED.**

25 Dated: November 8, 2017

26 
27 Hon. Anthony J. Battaglia
28 United States District Judge